

1 THOMAS C. HORNE  
2 The Attorney General  
(Firm State Bar No. 14000)  
3 KATHRYN J. WINTERS  
Bar No. 012418  
4 Assistant Attorney General  
400 W. Congress, S-315  
Tucson, AZ 85701  
5 Telephone (520) 628-6542  
FAX (520) 628-6530  
6

7 Attorneys for Yavapai County Clerk of Court

8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

9 IN AND FOR THE COUNTY OF YAVAPAI

10 STATE OF ARIZONA,

11 Plaintiff,

12 v.

13 STEVEN CARROLL DEMOCKER,

14 Defendant.  
15

Case No. P1300CR201001325

OBJECTION AND MOTION TO STRIKE OR  
DISMISS THE COMPLAINT FOR  
CONSPIRACY TO WITHHOLD DOCUMENTS

16  
17 The Clerk of Court of Yavapai County, through the undersigned Assistant Attorney General,  
18 files this Objection and Motion to Strike or Dismiss the Complaint for Conspiracy to Withhold  
19 Documents filed by William E. (Bill) Williams in the above-captioned matter, for the following reasons:

- 20 (1) Mr. Williams is not a party in Case P1300CR201001325 and has no standing to file this  
21 type of pleading in the criminal case.  
22  
23 (2) The Yavapai Clerk of Court, Jeanne Hicks, and her employees Susan Rupe and Renee  
24 Braner, are not parties in Case P1300CR201001325, nor are the other named 'defendants'  
25 set forth in Mr. Williams' Complaint (p. 2).  
26  
27 (3) Mr. Williams' Complaint is filed in Case P1300CR201001325, but appears to be  
28 concerned with case records in Case P1300CR20081339.

SUPERIOR COURT  
COUNTY OF ARIZONA

2011 JAN 18 PM 3:30

CLERK

BY: ~~BOBBI JO BALL~~

- 1 (4) To the extent Mr. Williams' Complaint is seeking access to sealed records in Case  
2 P1300CR20081339, it appears there is a pending Request for Records filed by Mr.  
3 Williams in that case on December 13, 2010.
- 4 (5) To the extent Mr. Williams is seeking access to case records in the above-captioned  
5 matter or Case No. P1300CR20081339 that are not under seal; or if believes he has been  
6 denied access to case records that are not under seal, he has an adequate remedy at law as  
7 set forth in Arizona Supreme Court Rule 123.

8  
9 The Clerk's position is more fully set forth in the attached Memorandum of Points and  
10 Authorities.

11 **Memorandum of Points and Authorities**

12  
13 In Yavapai County Superior Court criminal case *State of Arizona v Democker*, Case  
14 P1300CR201001325, Mr. William (Bill) Williams filed a Complaint for Conspiracy to Withhold  
15 Documents, which alleges that Judge Darrow, Jeanne Hicks, Susan Rupe, Renee Braner, and Sheila  
16 Polk, are "defendants" in the case. (P. 2 of Complaint)

17 Mr. Williams is not a party to criminal case P1300CR201001325, and does not have standing to  
18 file this type of pleading seeking ancillary relief in the criminal case, or to name Judge Darrow, Jeanne  
19 Hicks, Susan Rupe, Renee Braner, or Sheila Polk as 'defendants' in Case P1300CR201001325.

20  
21 It appears that Mr. Williams is not requesting records pertaining to Case P1300CR201001325, in  
22 which his 'Complaint' is filed, but is requesting records in a separate criminal case, *State of Arizona v*  
23 *Democker*, Case P1300CR20081339. Mr. William's Complaint mentions a December 8 order, which  
24 presumably refers to a December 8, 2010 order entered in Case P1300CR20081339 pertaining to sealed  
25 records, and the process required to request access of those records. If Mr. Williams is requesting that  
26 sealed records in Case P1300CR20081339 be unsealed, he cannot make that request through his pending  
27 Complaint in Case P1300CR201001325.  
28

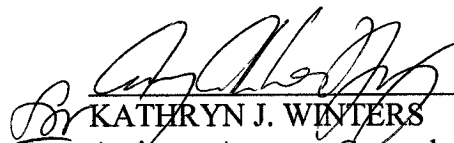
1 A review of pleadings filed in Case P1300CR20081339 indicates that Mr. Williams filed a  
2 request for sealed records in that case on December 13, 2010, and a ruling has not yet been issued  
3 regarding his request. Although the Clerk is not a necessary party to that proceeding, if an order is  
4 issued in the future unsealing previously sealed records in Case P1300CR20081339, the Clerk will then  
5 be authorized to provide public access to those unsealed records.  
6

7 Mr. Williams cites A.R.S. § 39-121, Inspection of public records, as authority in his Complaint.  
8 If Mr. Williams is alleging a public records violation under A.R.S. § 39-121, the Public Records Act set  
9 forth in Title 39 of the Arizona Revised Statutes is not applicable to criminal case records maintained by  
10 the Clerk of Court. Access to criminal case records is governed by Arizona Supreme Court Rule 123,  
11 entitled 'Public Access to the Judicial Records of the State of Arizona.' *London v Broderick*, 206 Ariz.  
12 490, 80 P.3d 769 (2003). Rule 123 sets forth the process for requesting court records, including criminal  
13 case records, and if denied, the administrative process for requesting review of denials to access to case  
14 records. If that is the intent of Mr. Williams' Complaint, he has a means under Supreme Court Rule  
15 123, in which he can request public records and seek redress if denied access.  
16

17 For the above-stated reasons, the Clerk of Court requests that Mr. Williams' Complaint for  
18 Conspiracy be stricken or dismissed.

19 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of January, 2011.

20  
21 THOMAS C. HORNE  
22 Attorney General

23   
24 KATHRYN J. WINTERS  
Assistant Attorney General

25 ORIGINAL of the foregoing filed this  
26 18<sup>th</sup> day of January, 2011 with:

27 CLERK OF THE SUPERIOR COURT  
28 Yavapai County Superior Court  
120 S. Cortez St.  
Prescott, AZ 86303

1 Copy of the foregoing delivered  
2 this 18<sup>th</sup> day of January, 2011 to:

3 Hon. David Mackey, Presiding Judge  
4 Yavapai County Superior Court  
5 120 S. Cortez St.  
6 Prescott, AZ 86303

7 Copy of the foregoing mailed  
8 this 18<sup>th</sup> day of January, 2011 to:

9 William E. (Bill) Williams  
8 824 W. Gurley St.  
Suite 129  
9 Prescott, AZ 86305

10 Sheila Polk  
11 Yavapai County Attorney's Office  
12 255 E. Gurley, 1<sup>st</sup> Floor  
Prescott, AZ 86301

13 Craig Williams  
14 DeRienzo and Williams PLLC  
15 3681 N. Robert Rd.  
Prescott Valley, AZ 86314-9432

16   
17 \_\_\_\_\_